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Attorneys for Creditor

Performance Contracting, Inc.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Francisco Division)**

In re

PG&E CORPORATION

and

PACIFIC GAS AND ELECTRIC COMPANY,

Debtor,

Case No. 19-30088 DM (Lead Case)

(Jointly Administered with
Case No. 19-30089 DM)

Chapter 11

**NOTICE OF PERFECTION OF
MECHANICS LIEN PURSUANT TO
11 U.S.C. § 546(b)(2)**

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric
Company
☒ Affects both Debtors

[Merced County, Document
No. 2019010261]

* All papers shall be filed in the Lead Case
No. 19-30088 DM.

Performance Contracting, Inc. ("PCI"), by and through its undersigned counsel,
hereby gives notice of perfection of its mechanics lien under 11 U.S.C. § 546(b)(2), as
follows:

1. PCI is a corporation that has provided and delivered labor, services,
equipment, and materials for the construction and improvement of projects on real property
located in the County of Merced, State of California (the "Property") and owned by PG&E

1 Corporation and/or Pacific Gas and Electric Company (collectively, the "Debtors")

2 2. Through January 29, 2019 (the "Petition Date"), the amount owing to PCI is
3 at least \$1,797.00, exclusive of accruing interest and other charges, with additional
4 amounts owed and accrued after the Petition Date.

5 3. On April 11, 2019, after the Petition Date, PCI properly perfected its
6 mechanics lien under California Civil Code §§ 8400, et seq. by timely recording its
7 Mechanics Lien (Claim of Lien) in the Official Records of Merced County, State of
8 California, as more fully described in its Mechanics Lien, a true copy of which is attached
9 hereto as Exhibit A.

10 4. Pursuant to California Civil Code § 8460, an action to enforce a lien must be
11 commenced within 90 days after recordation of the claim of lien. However, due to the
12 automatic stay set forth in 11 U.S.C. § 362, PCI is precluded from filing a state court action
13 to enforce its mechanics lien. 11 U.S.C. § 546(b)(2) provides that when applicable law
14 requires seizure of property or commencement of an action to perfect, maintain, or
15 continue the perfection of an interest in property, and the property has not been seized or
16 an action has not been commenced before the bankruptcy petition date, then the claimant
17 shall instead give notice within the time fixed by law for seizing the property or
18 commencing an action. (See 11 U.S.C. § 546(b)(2); see also In re Baldwin Builders
19 (Village Nurseries v. Gould), 232 B.R. 406, 410-411 (9th Cir. 1999); Village Nurseries v.
20 Greenbaum, 101 Cal.App 4th 26, 41 (Cal. Ct. App. 2002).)

21 5. Accordingly, PCI hereby provides notice of its rights as a perfected lienholder
22 in the Property pursuant to California's mechanics lien law. PCI is filing and serving this
23 notice to preserve, perfect and maintain the perfection of its lien and its rights in the
24 Property to comply with the requirements of California state law, 11 U.S.C. §§ 362(a),
25 362(b)(3), and 546(b)(2), and any other applicable law. This notice constitutes the legal
26 equivalent of having recorded a mechanics lien in the recorder's office for the county
27 where the Property is located and then having commenced an action to foreclose the lien
28 in the proper court. By this notice, the Debtors and other parties in interest are estopped

1 from claiming that the lawsuit to enforce PCI's mechanics lien was not timely commenced
2 pursuant to applicable state law. PCI intends to enforce its lien rights to the fullest extent
3 permitted by applicable law. The interests perfected, maintained, or continued by 11
4 U.S.C. § 546(b)(2) extend in and to the proceeds, products, offspring, rents, or profits of
5 the Property.

6 6. The filing of this notice shall not be construed as an admission that such filing
7 is required under the Bankruptcy Code, the California mechanics lien law, or any other
8 applicable law. In addition, PCI does not make any admission of fact or law, and PCI
9 asserts that its lien is senior to and effective against entities that may have acquired rights
10 or interests in the Property previously.

11 7. The filing of this notice shall not be deemed to be a waiver of PCI's right to
12 seek relief from the automatic stay to foreclose its mechanics lien and/or a waiver of any
13 other rights or defenses.

14 8. PCI reserves all rights, including the right to amend or supplement this
15 notice.

16 Dated: April 17, 2019

HEFNER, STARK & MAROIS, LLP

17
18 By



Howard S. Nevins, Attorneys for
PERFORMANCE CONTRACTING, INC.,
Creditor

EXHIBIT "A"

BARBARA J LEVEY

Merced County Clerk – Recorder

P Public

Doc#: **2019010261**

* \$ R 0 0 0 2 5 9 7 7 4 \$ *

Titles: 1 Pages: 5

Fees 28.00

Taxes 0.00

Housing Fee 75.00

PAID 101.00

RECORDING REQUESTED BY AND RETURN TO:

Performance Contracting, Inc (PCI)
3030 Orange Grove Avenue
North Highlands, CA 95660
Phone: 916-576-3915
Fax: 916-484-1875

MECHANICS LIEN

The undersigned claimant, PERFORMANCE CONTRACTING, INC. ("Claimant"), hereby claims a mechanic's lien upon the following described real property:

4155 E Childs Avenue
Merced, CA 95341

See Exhibit A which is attached and hereby incorporated for further description of real property.

The Claimant's demand, after deducting all just credits and offsets, is the sum of \$1,797.00.

The name of the Owner or Reputed Owner is: Pacific Gas and Electric Company, A California Corporation, 245 Market Street, N10A, Room 1015, P.O. Box 770000, San Francisco, CA 94177 and Pacific Gas and Electric Company, A California Corporation, 77 Beale Street, 32nd Floor, San Francisco, CA 94105.

The Claimant furnished the following kinds of labor, services, equipment, materials, skills, supplies, appliances, power, and surveying: HVAC Wet, HVAC Dry, Plumbing as outlined in work authorization #:170494.94.704.

The name of the person by whom Claimant was employed or to whom Claimant furnished the work was Airco Mechanical, 8210 Demetre Ave, Sacramento, CA 95828.

The Claimant's address is: Performance Contracting, Inc (PCI), 3030 Orange Grove Avenue North Highlands, CA 95660

**NOTICE OF MECHANICS LIEN
ATTENTION!**

Upon the recording of the enclosed **MECHANICS LIEN** with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanics lien is recorded.

The party identified in the enclosed mechanics lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanics lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the mechanics lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB SITE AT www.cslb.ca.gov.

Dated: April 10, 2019.

PERFORMANCE CONTRACTING, INC.

By: 

Print Name: David Texdahl

Title: General Manager

VERIFICATION

I declare that I am authorized to record this Mechanics Lien on behalf of the claimant. I have read the foregoing document and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at North Highlands, CA on April 10, 2019 for PERFORMANCE CONTRACTING, INC.

Signed by: 

Print Name/Title: David Texdahl/General Manager

Phone: (916) 576-3909 Fax: (916) 484-0431

CERTIFICATE OF MAILING (Check A or B)

I declare that on April 10, 2019, I served a copy of this Mechanics Lien, and any related documents, from the above address, by registered mail, certified mail, or first class mail, postage prepaid, evidenced by a Certificate of Mailing, A. ☒ addressed to Pacific Gas and Electric Company, A California Corporation, (name and title) the Owner or Reputed Owner, at 245 Market Street, N10A, Room 1015, P.O. Box 770000, San Francisco, CA 94177 and 77 Beale Street, 32nd Floor, San Francisco, CA 94105 (address), which is the Owner's or Reputed Owner's residence or place of business address, or the address shown by the building permit on file with the authority issuing a building permit for this work, or B. ☐ failing service to the Owner or Reputed Owner in the manner described above, addressed alternatively to _____ (name and title) the construction lender or the

original contractor, at the following address _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at North Highlands, CA 95660 on April 10, 2019.

Signed by: 

Print Name/Title: David Texdahl, General Manager

**ATTACH RECEIPTS OF
CERTIFIED OR REGISTERED
MAIL WHEN RETURNED**

PROOF OF SERVICE AFFIDAVIT (Check A or B)

I declare that on April 11, 2019, I served a copy of this Mechanics Lien, and any related documents, from the above address, by registered mail, certified mail, or first class mail, postage prepaid, evidenced by a Certificate of Mailing, A. ☒ addressed to Pacific Gas and Electric Company, A California Corporation, (name and title) the Owner or Reputed Owner, at 245 Market Street, N10A, Room 1015, P.O. Box 770000, San Francisco, CA 94177 and 77 Beale Street, 32nd Floor, San Francisco, CA 94105 (address), which is the Owner's or Reputed Owner's residence or place of business address, or the address shown by the building permit on file with the authority issuing a building permit for this work, or B. ☐ failing service to the Owner or Reputed Owner in the manner described above, addressed alternatively to

_____ (name and title) the construction lender or the original contractor, at the following address

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at North Highlands, CA 95660 on April 10, 2019.

Signed by: 

Print Name/Title: David Texdahl, General Manager

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of SACRAMENTO }

On 4-10-2019 before me, LISA HARRIS
(Here insert name and title of the officer)

personally appeared DAVID TEX DAHL
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Lisa Harris
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

MECHANICS LIEN

(Title or description of attached document)

PG 4 E

(Title or description of attached document continued)

Number of Pages 4 Document Date 4-10-19

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ◆ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ◆ Indicate title or type of attached document, number of pages and date.
 - ◆ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

EXHIBIT "A"

SITUATED IN THE COUNTY OF MERCED AND STATE OF CALIFORNIA AND DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY IDENTIFIED AS EXHIBIT "B" ADJUSTED REMAINDER OF THAT CERTAIN BOUNDARY ADJUSTMENT #17-04 AS PER CERTIFICATE OF COMPLIANCE #2017-08 RECORDED DECEMBER 26, 2017 AS DOCUMENT NO. 2017043783, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 7 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN CITY OF MERCED, COUNTY OF MERCED, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THE "REMAINDER" PARCEL AS SHOWN ON THAT CERTAIN PARCEL MAP FOR TRI-VALLEY GROWERS FILED IN BOOK 70 OF PARCEL MAPS AT PAGES 24-25, MERCED COUNTY RECORDS.

**EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION THEREOF:
BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 AS SHOWN ON THE ABOVE REFERENCED PARCEL MAP, THENCE N. 00°26'15" E. ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID PARCEL 1 A DISTANCE OF 134.00 FEET; THENCE N. 89°16'00" E. PARALLEL WITH THE NORTH LINE OF SAID PARCEL 1 A DISTANCE OF 660.00 FEET TO A POINT ON THE EAST LINE OF SAID "REMAINDER" PARCEL; THENCE S. 00°26'15" W. ALONG SAID EAST LINE A DISTANCE OF 134.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1; THENCE S. 89°16'00" W. ALONG THE NORTH LINE OF SAID PARCEL 1 A DISTANCE OF 650 FEET TO THE POINT OF BEGINNING.**

TAX ID NO: 061-033-026-000